

RECEIVED
FEC MAIL CENTER

MUR # 6989

v.

OFFICE OF GENERAL
COUNSEL

2015 MAY 30 AM 11:56

RECEIVED
FEDERAL ELECTION
COMMISSION

¹ See FEC Form 2: Statement of Candidacy, available at <http://docquery.fec.gov/pdf/874/15031422874/15031422874.pdf>.

began a 26-day book tour with stops in Iowa, Florida, and South Carolina, among others, to promote his new book *A More Perfect Union: What We the People Can Do to Reclaim Our Constitutional Liberties*, published by Sentinel—a division of Penguin Random House.³

Penguin Random House is a domestic limited liability company registered with the Delaware Department of State.⁴ Dr. Carson's book tour is being paid for by Sentinel, including Dr. Carson's transportation and lodging expenses.⁵

During this book tour Dr. Carson, who has chosen not to suspend his presidential campaign, has continued to discuss his candidacy and tout his plans for the country if he is elected President while attending promotional events purportedly for his new book. On October 9, Dr. Carson was the featured speaker at a National Press Club event titled "NPC Luncheon with Dr. Ben Carson, Author and Presidential Candidate."⁶ The appearance was a promotional event for Dr. Carson's book, listed on the publisher's "Events" page and described by the National Press Club's webpage for the event as a discussion about Dr. Carson's new book.⁷ At this event however Dr. Carson spoke at length about policies that he would implement as President including noting that "under a Carson administration, if another country attacks us with a cyber-attack, they're going to get hit so hard, it's going to take them a long time to recover."⁸ Dr. Carson then went on to answer questions about how he as President would approach the

² FEC Committee ID: C00573519.

³ See Penguin Random House, "Ben Carson - Events," <http://bencarsonbook.com/events>; see also Trip Gabriel, *Calm Manner Has Ben Carson Rising in Polls*, N.Y. TIMES, October 25, 2015, http://www.nytimes.com/2015/10/26/us/politics/calm-manner-has-ben-carson-rising-in-polls.html?_r=0.

⁴ Delaware Department of State Division of Corporations File Number: 5296789.

⁵ See Gideon Resnick and Betsy Woodruff, *Did Ben Carson Already Break Campaign Law?* THE DAILY BEAST, October 19, 2015, <http://www.thedailybeast.com/articles/2015/10/19/did-ben-carson-already-break-campaign-law.html>.

⁶ The National Press Club, "NPC Luncheon with Dr. Ben Carson, Author and Republican Presidential Candidate," <https://www.press.org/events/npc-luncheon-dr-ben-carson-author-and-republican-presidential-candidate>.

⁷ Penguin Random House, "Ben Carson - Events," <http://bencarsonbook.com/events>; The National Press Club, "NPC Luncheon with Dr. Ben Carson, Author and Republican Presidential Candidate," <https://www.press.org/events/npc-luncheon-dr-ben-carson-author-and-republican-presidential-candidate>.

⁸ National Press Club, "National Press Club Luncheon With Ben Carson - Transcript" at 9, October 9, 2015, https://www.press.org/sites/default/files/20151009_carson.pdf.

situation in Syria saying that he would establish a "no-fly zone in conjunction with Turkey."⁹

Dr. Carson also noted that in his first three months in office he would call for a joint session of Congress to inform them that "under a Carson administration, we recognize that the people are at the pinnacle, and that we work for them, and they don't work for us."¹⁰ Dr. Carson also opined on the characteristics he would look for in a Chair of the Federal Reserve and how he would choose a running mate.¹¹

In addition to the October 9th event at the National Press Club, Dr. Carson continued to appear on cable television programs discussing his presidential campaign such as an appearance on Fox News's program *Fox and Friends* where Dr. Carson left no doubt that he was appearing in his capacity as a candidate, saying "I don't want to be the establishment candidate."¹² All of these events occurred between October 4 and October 11, a week during which Dr. Carson's publisher, Sentinel, was paying for his travel and lodging expenses.¹³ Additionally, publicly available news reports indicate that Dr. Carson has consistently answered campaign-related questions during book tour appearances, and even accepted a \$500 campaign contribution at a book tour event in Texas.¹⁴ Dr. Carson has also sandwiched campaign events between promotional book tour events, a practice that raises further concerns regarding whether the Carson campaign or Sentinel has been paying for Dr. Carson's campaign related expenses.¹⁵ All of this activity has even led Dr. Carson himself to tacitly admit that the lines between his

⁹ *Id.* at 10.

¹⁰ *Id.* at 12.

¹¹ *Id.* at 12, 15-16.

¹² See Resnick and Woodruff, *Did Ben Carson Already Break Campaign Law?*

¹³ *Id.*

¹⁴ See Rosie Gray, Ben Carson's Book Tour Looks A Lot Like A Campaign Tour, BuzzFeed News, October 23, 2015, <http://www.buzzfeed.com/rosiegray/ben-carsons-book-tour-looks-a-lot-like-a-campaign-tour#.akxqEp3nP>; see also Jane Trim, "On Carson's Book Tour, Politics and Business are Blurred," MSNBC, October 20, 2015, <http://www.msnbc.com/msnbc/carsons-book-tour-politics-and-business-are-blurred>.

¹⁵ See Resnick and Woodruff, *Did Ben Carson Already Break Campaign Law?*

campaign and his book tour have been blurred, saying “[h]onestly, anything that you do when you’re running for president is campaigning, to a sense, because it’s going to be seen that way.”¹⁶

B. LEGAL ARGUMENT

The Act prohibits corporations from making contributions in connection with any federal election.¹⁷ Similarly, a candidate for federal office is prohibited from accepting a prohibited corporate contribution.¹⁸ Like a corporation, a limited liability company is prohibited from making campaign contributions if it elects to be treated as a corporation by the Internal Revenue Service (“IRS”).¹⁹ If a limited liability company elects to be treated as a partnership by the IRS, it may contribute up to \$2,700 per election to a federal candidate.²⁰ The Act and Commission regulations define a contribution to include “any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value” to a political committee in connection with any federal election.²¹ The term “anything of value” includes in-kind contributions, such as goods or services provided without charge or at a charge that is less than the usual and normal charge for such goods or services.²² In-kind contributions are treated as if the committee expended funds to purchase the goods or services.²³

Here, the facts indicate that Dr. Carson has used his Sentinel-funded book tour to openly campaign for federal office. Dr. Carson’s appearance at the National Press Club was billed by its host as a discussion with “Presidential Candidate” Dr. Carson and in his remarks Dr. Carson used his time not to promote his book but to instead discuss his presidential campaign, his future

¹⁶ Sam Sanders, *Ben Carson Book Tour Blurs The Line Between Business And Politics*, NPR, October 21, 2015, <http://www.npr.org/2015/10/21/450611700/ben-carson-book-tour-blurs-the-line-between-business-and-politics>.

¹⁷ 52 U.S.C. § 30118(a); 11 C.F.R. § 114.2.

¹⁸ 52 U.S.C. § 30118(a).

¹⁹ See 11 C.F.R. § 110.1(g).

²⁰ See *id.*; 52 U.S.C. § 30116(a)(1); 11 C.F.R. §§ 110.1(e), 110.1(b)-(c).

²¹ *Id.* §§ 30118(b)(2), 30101(8)(a); 11 C.F.R. § 114.1(a)(1).

²² 11 C.F.R. § 100.52(d)(1).

²³ FEC Adv. Op. 1992-33 (RNC/DNC).

plans for a "Carson administration," and even what he is looking for in a running mate. Given these statements, there can be no doubt that Dr. Carson did not appear at this event in his capacity as an author promoting a newly written book but instead as a candidate for President. Additionally, as noted above, Dr. Carson's appearance at the National Press Club is not the only instance in which Dr. Carson has used his book tour as an extension of his presidential campaign. According to multiple media reports while Sentinel has paid for his travel, accommodations, and promotional costs Dr. Carson has, among other transgressions, openly discussed his presidential campaign at book tour appearances, squeezed campaign stops into book tour funded travel schedules, and even accepted campaign contributions. These activities raise serious questions that should be investigated by the Commission.

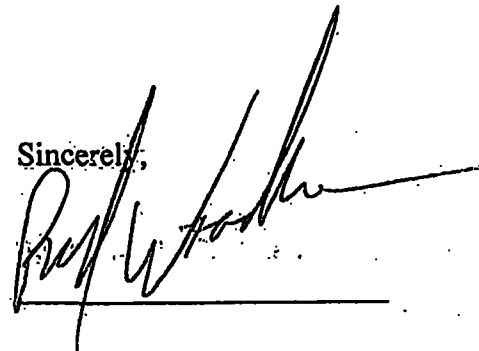
According to multiple, widely distributed media reports it appears likely that Dr. Carson's book tour appearances have functioned as campaign stops. As such the associated costs for travel, lodging, and promotional materials that were paid for by Sentinel at no cost to the Carson campaign represent in-kind contributions. These in-kind contributions should be investigated to determine whether or not they were an impermissible corporate contribution to Dr. Carson's campaign, and if therefore Dr. Carson and his campaign also committed violations by accepting an impermissible corporate contribution. If Penguin Random House—and therefore Sentinel—has elected to be treated as a partnership by the IRS, the Commission should investigate whether and by how much the contributions exceeded the Act's \$2,700 per election limit. Similarly, because the Commission prohibits a candidate or candidate's campaign committee from knowingly accepting excessive contributions if Sentinel is taxed as a partnership Dr. Carson and his campaign have likely violated this prohibition as well.²⁴

²⁴ 11 C.F.R. § 110.9.

C. REQUESTED ACTION

As shown the facts indicate that Respondents Dr. Carson, Carson America and Logan D. Delany Jr., and Penguin Random House have violated the Act and Commission regulations. Respondent Penguin Random House, through its affiliate Sentinel, has likely violated the Act and Commission regulations by making an illegal in-kind corporate contribution to Dr. Carson's presidential campaign or by exceeding contribution limits. Respondents Dr. Carson and Carson America and Logan D. Delany Jr., may have accepted illegal corporate contributions or knowingly accepted contributions from Penguin Random House in excess of the contribution limits. We respectfully request that the Commission investigate these violations, and that Respondents be enjoined from further violations and be fined the maximum amount permitted by law.

Sincerely,



SUBSCRIBED AND SWORN to before me this 23 day of November, 2015.



Notary Public

My Commission Expires:

10/31/2020

